

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

TERRA PARTNERS,

Plaintiff,

v.

**RABO AGRIFINANCE, INC. and
AG ACCEPTANCE CORPORATION,**

Defendants.

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CAUSE NO. 2:08CV194J

**DEFENDANTS' MOTION TO EXTEND DEADLINE TO
FILE THIRD MOTION FOR SUMMARY JUDGMENT
AND BRIEF IN SUPPORT**

Defendants, Rabo AgriFinance, Inc. and Ag Acceptance Corporation, ("Defendants") request that the Court extend the deadline for Defendants to file a Third Motion for Summary Judgment in accordance with this Court's Order dated July 28, 2011 as follows:

BACKGROUND

1. On July 28, 2011, this Court entered an Order permitting Defendants to file a Third Motion for Summary Judgment addressing an issue which the Court concluded is not clear from the opinion on the First Motion for Summary Judgment filed in this case. The Court has ordered that Defendants must file their Third Motion for Summary Judgment addressing the remaining issue by August 12, 2011.

2. Defendants' lead attorney on this case, Barbara Whiten Balliette, will be on vacation with her family through August 15, 2011. During that time, Ms. Balliette will not have access to the Internet which is necessary for her to properly prepare a Third Motion for Summary Judgment. Therefore, Defendants request that this Court grant them an extension of one week on the deadline to file their Third Motion for Summary Judgment from August 12, 2011 to August 19, 2011.

ARGUMENT AND AUTHORITIES

3. Federal Rule of Civil Procedure 6(b)(1) provides that the court may for good cause extend the time periods specified in the rules or court order. The district courts are permitted wide discretion under Rule 6(b) to grant motions for enlargement of time when substantial interests of justice will be served by doing so. *Osberg Construction Co. v. U.S.*, 3 Cl. Ct. 652, 654-55 (Cl. Ct. 1983). Rule 6(b) has therefore been applied “to secure the just, speedy and inexpensive determination of every action.” *Osberg*, 3 Cl. Ct. at 655. The courts have looked to factors such as the existence of prejudice to the opposing party and bad faith on the part of the moving party as guideposts to the exercise of their discretionary powers. *Osberg*, 3 Cl. Ct. at 655.

4. Here, good cause exists to extend the deadline for Defendants to file their Third Motion for Summary Judgment because Defendants’ lead attorney will be away on a pre-planned vacation with little to no access to the Internet. Ms. Balliette will therefore be unable to prepare the motion before August 12. Defendants request a one week extension until August 19, 2011 in which to file their Third Motion for Summary Judgment. This extension will in no way prejudice the opposing party. In fact, Plaintiff’s attorney has indicated that he does not oppose this motion. Furthermore, the substantial interest of justice and the speedy and inexpensive determination of every action will be served by the Court granting Defendants’ Motion to Extend Deadline to File Third Motion for Summary Judgment and Brief in Support.

ACCORDINGLY, Defendants Rabo AgriFinance, Inc. and Ag Acceptance Corporation pray that the Court grant Defendants’ Motion to Extend Deadline to File Third Motion for Summary Judgment and Brief in Support and give Defendants one additional week, or until August 19, 2011 to file Defendants’ Third Motion for Summary Judgment.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS
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AG ACCEPTANCE CORPORATION**

CERTIFICATE OF CONFERENCE

On July 29, 2011, Barbara Balliette had a conference with Steve Clark and he indicated he does not oppose this motion.

/s/ Barbara Whiten Balliette

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, I electronically filed the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to Plaintiff's Counsel, Steven Clark, who has consented to accept this Notice as service of this document by electronic means.

/s/ Thomas C. Riney

Thomas C. Riney